



## Article

### There Is Such a Thing as a Good Divorce

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Few areas of our lives have been unaffected by the ripple effects of the pandemic and relationships are no exception. Health and financial worries are well-known stressors on any marriage, but COVID-19 restrictions also forced many couples into unusually close proximity. Whilst the extra time together was no doubt welcomed by some, for many it may have forced existing cracks in the relationship to breaking point.

The idea of divorce often still conjures images of warring spouses and courtroom showdowns. However, although almost all separations will be emotional, bitter fights over finances and access to children are not the inevitable outcome of a separation and there is a growing trend for parties to turn to services which offer a less combative approach to separations. Take Bill and Melinda Gates for example, they are the latest high-profile pairing to divorce with seemingly minimal fallout.

No doubt the Gates' divorce saw a great amount of negotiations behind the scenes (it would be difficult to avoid given the magnitude of their assets). But whatever disagreements did take place, they didn't spill onto the public stage. Their relationship has remained sufficiently cordial that they have each been able to continue working in their foundation — a prospect which would fill many ex partners with dread.

So what is the best advice for those who want to follow in their footsteps and achieve a “good divorce”?

**1. Get advice early**

People often delay speaking to lawyers, possibly out of a fear that once the word divorce has been uttered there is no turning back. However, early advice is invaluable in ensuring that you know what a divorce might mean in practical terms. It is easy to think that the grass is greener, and it may well be, but having an idea of what your life will look like on the other side in terms of finances and child contact arrangements is essential information you should acquire and consider *before* you decide to divorce, not after.

Under Bermudian law, marital assets will usually be divided equally and although the courts are slow to interfere with non-marital assets, such as inheritance, they do have the power to do so where necessary. Understanding how these rules will likely be applied to your family will ensure you go into proceedings with your eyes open.

**2. Prioritise effective communication**

The pain of separation (especially one which one party didn't see coming) can make it tempting to cut off communication with an ex altogether. Making space to deal with any emotional fallout is obviously beneficial in the immediate aftermath of separation. However, couples who are able to keep the lines of communication open (and respectful) will often find the process of untangling their lives easier.

Communicating via lawyers can help ensure that more complex matters are explained accurately and effectively, but this need not be the only method of communication.

Where children are involved, some level of direct communication will almost always be needed.

### 3. Be flexible

A good divorce, much like a good marriage, requires compromise. Early advice enables you to consider what you'd like out of a divorce and what is legally possible. Clear objectives will ensure you focus your energy (and money) on the things that matter to you. However, it's important that your ideal outcome doesn't become the only outcome you'll consider if you wish to reach an agreement amicably.

Prioritise your goals and be prepared to be flexible. If you really can't imagine life without your favourite rug or the wedding china, consider whether you can buy a replacement for less than you're paying your lawyer.

### 4. Only litigate the issues that matter

Litigation will sometimes be necessary, but the courtroom is not the arena to sift through the emotional history of the relationship. To have a judge confirm that you were treated terribly by your ex may be very attractive, but it is unlikely to happen and it is even less likely to affect the orders made about your finances or children.

Remember that every battle you choose to fight comes with a financial and emotional cost, and makes agreement on all issues harder to achieve. Save your money for issues worth winning.

### 5. Don't forget the kids

Children often have their own views about how they want family life to look moving forward (not just hoping that mum and dad get back together) and it's important that these aren't simply ignored. The importance of staying in the family home can be over or underestimated by parents without any consultation with the children whatsoever, with significant impact on their settlement proposals. Similarly, a strong desire as to where they wish to be schooled or how much they wish to see each parent can also impact plans. Children's views aren't always realistic and they certainly shouldn't be treated as determinative, but they should be considered.

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